IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Appln. No. 905 of 2005

Surendra Sharma & others …… Applicants

Versus

State of Uttaranchal & others ……. Respondents

Mr. Dharam veer, Sr. Advocate assisted by Mr. Mohd. Azim, Advocate for the applicants.
Mr. H.C. Pandey, Asstt. Govt. Advocate for the State.

Hon. Prafulla C. Pant, J.

This is a petition moved under Section 482 of the Code of Criminal Procedure, 1973 for quashing of summoning order passed in Criminal Case No. 722 of 2005; Sanjeev Kumar Sharma Vs. Surendra Sharma @ Chhinda and others, under Section 323, 504, 506, 392, 325 and 354 of I.P.C, pending before Addl. Civil Judge (J.D.) / Judicial Magistrate, Kashipur.

2. Heard.

3. Learned counsel for the applicants / petitioners argued that an F.I.R. lodged by one of the applicants was registered as crime case No. 1718 of 2005 under Section 326, 504, 506 of the I.P.C. against accused Raghunath Sharma and Saba about the incident which occurred on 01.07.2005 at 2.30 P.M. In respect of the same incident a criminal complaint was filed against the applicants by the brother of accused Saba and in said complaint case, the applicants were summoned for the offences punishable under Section 323, 504, 506, 392, 325 and 354 of the I.P.C. This Court in the proceedings under Section 482 of the

Code of Criminal Procedure cannot appreciate the evidence as to the fact whether the applicants were rightly summoned or not, but it is clear from the record in this case, that there are cross versions of the same incident. Both the criminal cases can be tried by the concerned Magistrate independently.

4. In the opinion of this Court, there is no sufficient ground on which the criminal proceedings of the criminal case No. 722 of 2005; Sanjev Kumar Sharma Vs Surendra Sharma be quashed under Section 482 of the Code of Criminal Procedure, in the above circumstances. Therefore, the petition under Section 482 of the Code of Criminal Procedure is dismissed. However, it is directed that when the applicants surrender before the trial court in the aforesaid case, and if bail application is moved there, learned Magistrate shall disposed of the same without any unreasonable delay.

(Prafulla C. Pant, J.)

Dt. 19th December, 2005.
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